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November 25, 2019

Hon. Paul A. Crotty  
United States District Judge  
Southern District of New York  
U.S. Courthouse  
500 Pearl Street  
New York, NY 11201

Re: *United States v. Joshua Adam Schulte*, Cr. Docket No. 17-548 (PAC)

Dear Judge Crotty:

I write to the Court to request an adjournment of the January 13, 2020 trial date. This request is separate and apart from any postponement of trial which could occur should Mr. Schulte decide that he may need to call his current lawyers as witnesses at his trial.

On October 28, 2019, I was assigned by this Court to represent Mr. Schulte along with his present legal team. When I accepted the assignment, I was prepared to devote a significant amount of my time to preparing for a January 13, 2020 trial date. As I have realized in the last few weeks, however, this case is far more complicated than I believed, and involves advanced computer technology that is beyond difficult to understand. I simply am not able to be ready for a January 13, 2020 trial date.

In addition to the technology, which is dense and daunting to master, the case involves voluminous discovery, ongoing motion practice, and intense trial preparation of the type that I have never before experienced. Indeed, this is among the most technology/document-intensive cases (if not the most) in which I have been involved over the past two decades. And, of course, a substantial portion of the documents are classified and reviewable only in the SCIF, which is also the only area to have meaningful meetings with the defendant, co-counsel, and potential witnesses, and which therefore limits available hours to review discovery. It is expected that the government will call nearly 30 fact witnesses, at least 4 expert witnesses, and 16 forensic examiners who are part of the FBI's Computer Analysis Response Team or other federal agency. *See*, Government's Expert Notice dated October 18, 2019.

The defense has subpoenaed more than 50 witnesses. Even the defense lawyers and their experts who have worked on this case for almost a year and a half are still scrambling to learn and adjust to the flow of information in this case. Setting aside my active practice in both local Districts and the Second Circuit, CJA and retained, I am inundated by the complexity, quantity, and unique challenges of the discovery of this case and simply cannot be ready for a January trial date.

I am appointed to represent Mr. Schulte at trial along with the only other cleared trial counsel in this case—Ms. Shroff. This requires that I have comprehensive knowledge of the facts of the case and the defense strategy; only then can I be in position to prepare openings, closings, cross-examination of government witnesses, and direct examination of defense witnesses, let alone contribute to the written work ahead (e.g., in limine responses, ongoing CIPA litigation, etc.).

Other than shaking his hand at a court conference recently, I have not had opportunity to meet with Mr. Schulte or discuss his case with him. Mr. Schulte's trial is far more complicated than I anticipated, and I apologize to the Court for not realizing the complexity of the discovery prior to accepting the assignment to represent him. With a trial date so near—just six or so weeks away—given the overwhelming nature of this case as reviewed above, I cannot represent Mr. Schulte at a January trial consistent with my Sixth Amendment obligations as assigned counsel. I therefore request at least a six-month adjournment. Again, I apologize for this request but I simply underestimated the complexity and demands of the case.

I am available to discuss this request at a conference, as early as December 9 (I will be away from December 2 to 9, on a previously planned trip).

Respectfully submitted,

James M. Branden